

REMARKS

Reconsideration and withdrawal of the rejections of the pending claims are respectfully requested in view of the amendments and remarks herewith.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 27-36, 38 and 47 are pending in this application. Claims 27-36, 38 and 47 were under examination. Claims 27 and 47 were amended for clarity without prejudice, without admission, without surrender of subject matter and without any intention of creating any estoppel as to equivalents.

Claims 27 and 47 have been amended such that the causative agent of a disease or disorder has been amended to A β and the metal binding ability has been amended to copper binding. Support can be found, for example, on page 12 line 16 to page 13 line 2 of the specification as originally filed.

No new matter is added.

The Examiner is thanked for indicating that the finality of the previous Office Action has been withdrawn pursuant to 37 CFR 1.114. The Examiner is also thanked for withdrawing the rejection of claims 27-39 and 47 under 35 U.S.C. 102(b).

It is respectfully submitted that the claims, herewith and as originally presented, are patently distinct over the art, and that those claims are and were in full compliance with the requirements of 35 U.S.C. § 112. The remarks made herein are not made for the purpose of patentability within the meaning of 35 U.S.C. §§101, 102, 103 or 112. Rather, the amendments and remarks herewith are made simply for clarification and to round out the scope of protection to which Applicant is entitled.

II. THE 35 U.S.C. §112 , FIRST PARAGRAPH, REJECTIONS ARE OVERCOME

Claims 27-36, 38 and 47 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Applicants respectfully traverse.

The Examiner indicates that adequate description is not present in the specification for variants having at least 6 amino acids in length and having at least 80% identity and which retain their ability to bind and inhibit the SOD and/or metal ion activity of a causative agent. The

Examiner contends that it is improper to combine the concept of “6 amino acids in length” with “80% identity” in order to broaden the scope of the claims. Office Action at 3.

In response, Applicants submit that the functional variants of the claim are sequences which are *at least* 6 amino acids in length (they can be between 6 and 15 amino acids), are at least 80% identical to the recited sequences and decrease or remove SOD activity and/or reduce or prevent the causative agent binding copper. Thus, for the two 6 amino acid sequences (SEQ ID NO: 1 and SEQ ID NO: 2), the functional variants will have *at least* 6 amino acids, but there may be type substitutions such as modified or different amino acids within the sequence. For the 15 amino acid sequence (SEQ. ID. NO: 3), the functional variants will be *at least* 6 amino acids in length (but can be 7 to 15 amino acids in length as there are ‘at least’ 6 amino acids) and may have deletions, insertions, inversions, repeats and/or type substitutions such as different or modified amino acids. It is clearly stated at page 13 lines 13-16, page 13 line 20 to page 14 line 5, and page 15 lines 14-18 of the specification as originally filed that such variants are encompassed by the term “functional variants”. All of these variants fall within the scope of the claims as long as they decrease or remove SOD activity and/or reduce or prevent the causative agent binding copper. Given the short length of the sequences and the need for at least 80% identity, Applicants respectfully submit that the range of possible variants is not excessive and may the function of the variants may easily and routinely be determined by a skilled artisan.

The Examiner also indicates that the amendment to the claims made on September 10, 2007 constitutes new matter because the definition of “functional variant” in the specification at pages 12-13 differs from that recited in the claims. In particular, the Examiner objects to the use of “metal ability” in claims 1 and 27 and alleges that “retains its ability to bind to a causative agent of a disease or a disorder” has a scope that goes beyond what is defined in the specification. Office Action at 3.

The Examiner also indicates that the prior written description and enablement rejections of claims 27-36, 38 and 47 are maintained. In particular, the Examiner argues that the description of three peptides, SEQ ID NOs: 1, 2 and 3, does not constitute possession of a representative number of the 80% sequence identity claimed. The Examiner also contends that the specification fails to provide adequate description of what constitutes “these generic and undescribed peptide ‘functional variants’”. Office Action at 4. In short, the Examiner suggests amending the claims to something definable, such as inhibiting copper binding to A β .

Although Applicants do not agree, in the interest of expediting prosecution, the claims have been amended to recite that the functional variants must retain there ability to bind A β and inhibit A β 's SOD and/or copper binding ability. Thus, the causative agent of a disease or disorder has been amended to A β and the metal binding ability has been amended to copper binding.

In view of the foregoing, reconsideration and withdrawal of the claim rejections are respectfully requested.

REQUEST FOR INTERVIEW

If any issue remains as an impediment to further examination and/or allowance, an interview with the is respectfully requested, prior to issuance of any paper other than a Notice of Allowance; and, the Examiner is respectfully requested to contact the undersigned to arrange a mutually convenient time and manner for such an interview.

CONCLUSION

In view of the remarks and amendments herewith and those of record, the application is in condition for allowance. Favorable reconsideration of the rejections of the application and prompt issuance of a Notice of Allowance, or an interview at a very early date with a view to placing the application in condition for allowance, are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date.

Respectfully submitted,

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